



TOWN OF NEW WINDSOR ZONING BOARD OF APPEALS

REGULAR SESSION - AGENDA

Date: APRIL 28, 2003 – 7:30 p.m.

ROLL CALL:

MOTION TO ACCEPT MINUTES DATED: APRIL 14, 2003

PRELIMINARY MEETINGS:

1. **TAZ INDUSTRIES (#03-16)** Existing 4 ft. fence does not meet zoning requirement 48-14-B1 for a corner lot (Obstruction) at 17 Goodman Avenue in an **R-4 Zone (15-7-6)**
2. **LUCY GILLMEIER (#03-17)** Request for 6.5 ft. X 10.5 ft. Entry with roof does not meet zoning requirement of 48-14-C(2) at 12 Victory Lane in an **R-4 Zone (16-4-8)**
3. **WILLIAM DALIOUS (#03-18)** Request for variance of Section 48-14(A)(4) of the Zoning Code - Existing shed projects closer to road than house on a corner lot at 607 Beattie Road in an **R-1 Zone (51-1-71)**
4. **MICHAEL DOWD (#03-19)** Request for 9 ft. required side yard setback for proposed 24 ft. by 28 ft. addition to single-family home at 23 Parade Place in an **R-4 zone (45-4-14)**

PUBLIC HEARINGS:

5. **KERRY KIRK (for JOSEPH DELEONARDO) (#03-13)** Request for an Interpretation and/or Use Variance for a 3-family dwelling at 19 Hillside Avenue in an **R-4 Zone (12-1-30)**
6. **MAKAN HOMES (03-09)** – Request for 51,543 sq. ft. Min. Lot Area, 5 ft. Front Yard Setback and 10 ft. 6 inch Rear Yard Setback to construct a single-family house in an **(R-3) zone at 200 Riley Road (65-1-22.3)**

FORMAL DECISIONS (TENTATIVE):

DENIS PERKOVIC (ANTHONY FAYO) – 03-02
ROBERT ANDREWS – 02-67
MARTIN & SUSAN OLSEN – 03-08
ROSE CRUDELE – 03-07
JOHN RINALDI – 03-11
JOHN BENICHIASA – 03-04
PAUL & LU ANN DECKER – 03-06 (SHED AND ADDITION)
FRANCO FIDANZA (PLANET WINGS) 03-03
ROUTE 32 N.W. REALTY LLC – 03-01
THOMAS BAILEY – 02-73
RONALD & LARISUE MC DERMOTT (BOB BIAGINI) – 02-70

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TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS

APRIL 28, 2003

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN
LEN MCDONALD
MICHAEL REIS
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE

REGULAR MEETING

MR. TORLEY: I'd like to call to order the April 28, 2003 meeting of the New Windsor Zoning Board.

MOTION TO ACCEPT MINUTES DATED APRIL 14, 2003

MR. TORLEY: Motion on the minutes?

MR. REIS: Make a motion that we accept the minutes as written.

MR. MC DONALD: Second it.

ROLL CALL

MR. REIS AYE

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MR. MC DONALD
MR. TORLEY

AYE
AYE

PRELIMINARY MEETINGS:

TAZ INDUSTRIES (03-16)

MR. TORLEY: Existing 4 ft. fence does not meet zoning requirement 48-14-B1 for a corner lot (obstruction) at 17 Goodman Avenue in an R-4 zone. By State Law, everything the zoning board does has to occur after a public hearing. We hold these preliminary meetings so you folks understand the kind of questions we're going to be asking you at the public hearing so nobody gets surprised at a public hearing and we can get more information and everything will work more smoothly, since this is the only time in your lives you'll do this.

Mr. James DeNicola appeared before the board for this proposal.

MR. TORLEY: The fence was there when you bought the house?

MR. DE NICOLA: Yes, 2001 they have pictures of it in the Town Hall from 1972, it wasn't chain link, it was like a, I guess like a bird fence, I don't know what it was but it was 4 foot high and somebody changed it to a chain link prior to our buying it.

MR. TORLEY: This is a private residence?

MR. DE NICOLA: Yes.

MR. TORLEY: The corporation owns it?

MR. DE NICOLA: Yes, everybody on every other corner has the same exact chain link fence, I gave you pictures of it.

MR. TORLEY: Well, the purpose of this code is to ensure the safety of motorists and pedestrians, you want to make sure there's a fence on the corner and you can't see it and there's an accident. It's our concerns that this does not cause any obstruction of view.

MR. DE NICOLA: Not whatsoever. It's three feet off our house. There's still another ten foot to the road on each side of the fence, even though it's a corner lot that's why I gave you the survey. Ours is actually 9 foot back from the road and everybody else's is right up to the road within three or four feet. On both sides of us are other corner lots that have the exact same fence connected to our fence, the existing fence that was there. Also when we got our insurance company, the title insurance, it never even showed that there was a problem with the fence and we have two of them.

MR. TORLEY: It can easily slip by. So what brought you here tonight?

MR. DE NICOLA: We have a buyer for the house and they won't buy the house unless the fence can stay up cause they have a dog.

MR. TORLEY: I see in the wintertime shots there's no vegetation on the fence but there's nothing there?

MR. DE NICOLA: None whatever, it's all cement on both sides.

MR. TORLEY: So the fence is in the middle of a cement--

MR. DE NICOLA: Correct.

(Whereupon, Mr. Rivera entered the room.)

MR. DE NICOLA: There's a sidewalk on both sides our fence. On the other side of the house it's just stone.

MR. TORLEY: Should you move to the public hearing, these are the kinds, these photographs are quite helpful, these are the, also it would be helpful if you can take a shot from the road at the 30 foot point.

MR. DE NICOLA: I did.

MR. TORLEY: It's kind of hard to tell with the snow.

MR. DE NICOLA: I'll take more, I'll videotape.

MR. TORLEY: Just both sides so we can see what the view of motorists would have around that corner cause that's the key thing, we want to ensure public safety.

MR. DE NICOLA: Well, the steps go out further than the fence, that's why I don't understand why there'd be a problem.

MR. TORLEY: It's the law.

MR. MC DONALD: One picture we're looking at the steps go beyond?

MR. DE NICOLA: Yes, correct.

MR. TORLEY: Do you have any other questions now?

MR. REIS: No. Accept a motion?

MR. TORLEY: Yes.

MR. REIS: Make a motion we set up Taz Industries for its requested variance for 17 Goodman Avenue.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

LUCY GILLMEIER (03-17)

MR. TORLEY: Request for 6.5 ft. x 10.5 ft. entry with roof that does not meet zoning requirement of 48-14 C(2) at 12 Victory Lane in an R-4 zone.

Ms. Lucy Gillmeier appeared before the board for this proposal.

MR. TORLEY: What's the problem?

MS. GILLMEIER: Well, basically, everything is there, it's just a little roof that was there prior to me purchasing the house and I guess it's two feet too wide and I'm trying to refinance the house and this came up as a problem I guess and we're on a private road so it really I think I gave you pictures from all angles to show you exactly how it was. The house has actually been bought and sold three times prior to this.

MR. TORLEY: And it all depends if the bank catches it on a given day what he had for lunch.

MR. MC DONALD: Looking at this picture, is this what we're looking at right here?

MS. GILLMEIER: Yes, exactly, and in front of my property line is like a 14 foot private road that's in front of us.

MR. MC DONALD: Never received any complaints about this?

MS. GILLMEIER: No.

MR. REIS: Michael, this is a front yard?

MR. BABCOCK: Yeah, she would be allowed a 6 foot by 8 foot deck that would be exempt from the front yard setback and since the deck is larger than that it's required to get a front yard setback. The front yard setback we use the R-4 zone quite honestly I don't think her entire house is 35 feet from the road.

MS. GILLMEIER: No, it's not, that's correct.

MR. TORLEY: When was the house built?

MS. GILLMEIER: 1820.

MR. TORLEY: I think you predate zoning.

MS. GILLMEIER: Is that all I had to say?

MR. TORLEY: No. Unless the entry, if you have any demonstration that the entry was there before 1967 or something of the same size.

MS. GILLMEIER: It's really just a roof, it's really basically like all it is, it's not a--

MR. TORLEY: Do you have any pictures to demonstrate that that kind of a structure was there before '67?

MR. BABCOCK: '66.

MS. GILLMEIER: I wasn't even born then, I wouldn't have that.

MR. TORLEY: You say it's an 1812 house?

MS. GILLMEIER: I don't know where I would find pictures.

MR. TORLEY: If you can find it that would obviate it because then you'd be predating the zoning code but in any case, this will clean up any problems with the house so the third generation owner down the line won't have any difficulty. This structure doesn't cause any problem with visibility, people moving up and down Victory Lane?

MS. GILLMEIER: No, it's a private road, just myself and my neighbor to the right of me.

MR. REIS: You've had no formal or informal complaints about this?

MS. GILLMEIER: No.

MR. REIS: Just for the record. Accept a motion?

MR. MC DONALD: It's been there a long time so I don't think you have a problem with sewage or water runoff.

MS. GILLMEIER: No, it's not a porch or a deck, just simply a roof.

MR. TORLEY: Covered entryway.

MS. GILLMEIER: Correct, exactly.

MR. TORLEY: But it sticks out too far to be considered just architectural.

MR. BABCOCK: It's too long. She's allowed actually it's a half a foot too wide, she's allowed a 6 foot by eight foot deck there, entryway, and she has, it's 6.5 by 10.5.

MR. REIS: Accept a motion?

MR. TORLEY: If there are no other questions.

MR. REIS: Make a motion that we set up Lucy Gillmeier for a requested variance at 12 Victory Lane.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

WILLIAM DALIOUS (03-18)

MR. TORLEY: Request for variance of Section 48-14(A)(4) of the Zoning Code - Existing shed projects closer to road than house on a corner lot at 607 Beattie Road in an R-1 zone.

Mr. William Dalious appeared before the board for this proposal.

MR. DALIOUS: William Dalious. I have this shed, barn, shed that was on the property when I purchased the property in 1988 and I have a current buyer for the house. We want to sell the house and because this shed is too close to the road, there's a violation listed and that's the problem. The shed was there again at the time I bought the house in '88. What happened was my lot at that point was not a corner lot, it was in the process of becoming a corner lot because Wagner Drive was just being, was coming through there and on the survey map, it shows Wagner Drive and says proposed town road. The road was actually there I guess maybe it wasn't dedicated to the town at that point in time but then once that road became a town road, then my shed was in essence in a front yard, it was closer to the road than was allowed to be.

MR. TORLEY: Do you know how long the shed had been there before '88?

MR. DALIOUS: I don't for sure. I would be guessing but I would say probably mid '70s.

MR. TORLEY: Cause I think it was there when I moved up which is in '82 I remember seeing that up there.

MR. DALIOUS: I think it was there in the mid 70's, I think the owner built it in the early or mid 70's, I'm not certain exactly.

MR. TORLEY: Mike, I have a question for you and Andy as well, I don't recall when the Wagner plot plan subdivision was put through, if it was, if the shed was there when there was no paper road next to it and he puts a road in, why does he need a variance?

MR. BABCOCK: I think the question here is if it was put in legally with a building permit at the time before the road was done, we would say that it's existing and I don't think the question would ever come up. There was no building permit or Certificate of Compliance for the shed on record. So now the problem is the road is there and we're going to be issuing the Certificate of Compliance today so that's why he's here today.

MR. MC DONALD: You have never received any complaints about this shed formally or otherwise?

MR. DALIOUS: No, sir, I haven't.

MR. RIVERA: Create a hardship if you moved it at this time?

MR. DALIOUS: Well, yes, it's not, it's on a cement slab and it's a, it's high and it was a sturdily constructed wood shed, you know, it was like a house and it's framed and the whole thing, sided, and it's not a commercial shed that you buy and drag into the property. You know what I mean?

MR. TORLEY: Looks like it's built better than some of the houses.

MR. DALIOUS: That's what somebody told me but I didn't want to say that. It's a very sturdy shed. The engineer was out too and he saw it and said that it was built better than some of the houses, Paul Cuomo, that was his comment.

MR. REIS: This hasn't caused any runoff problem, just for the record?

MR. DALIOUS: No, no, it hasn't.

MR. TORLEY: Gentlemen, do you have any other questions?

MR. MC DONALD: Accept a motion?

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MR. TORLEY: Yes.

MR. MC DONALD: I make a motion we that set up Mr. Dalious for a public hearing on his request for the existing shed that projects closer to the road.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MICHAEL DOWD (03-19)

MR. TORLEY: Request for 9 ft. required side yard setback for proposed 24 ft. by 28 ft. addition to single-family home at 23 Parade Place in an R-4 zone.

Mr. Michael Dowd appeared before the board for this proposal.

MR. TORLEY: Sir?

MR. DOWD: Good evening, Michael Dowd, D-O-W-D.

MR. TORLEY: Okay, sir, what seems to be the problem?

MR. DOWD: Just trying to plan an addition off the side of the house and the planned addition encroaches on the side yard clearance, I guess.

MR. TORLEY: So you want to be 8 feet off the side yard?

MR. DOWD: Excuse me, sir?

MR. TORLEY: How far by this map I'm looking at it implies that it will encroach to within 8 feet of the side yard.

MR. DOWD: I'm allowing a little bit extra based on advice of contractors, they said maybe go a foot further.

MR. MC DONALD: Is the house to the right or the left?

MR. DOWD: As your looking at it, it would be off to the right side.

MR. TORLEY: Replacing the garage, what would have been the garage area?

MR. DOWD: No, that's not a garage, sir, there's, that's an open driveway there, the original photos might show it a little clearer.

MR. TORLEY: Talk to your neighbors about this.

MR. DOWD: Yes, I realize that I'm going to have to go for a public hearing but at the very preliminary stages of this I felt it better to talk to the neighbors ahead of time than to just have them find out by receiving a letter in the mail.

MR. TORLEY: Good idea.

MR. REIS: To accomplish this Mr. Dowd do you have to take down any trees or vegetation?

MR. DOWD: I'm going to cut some of the front lawn out, I don't know if you consider that vegetation.

MR. TORLEY: We're talking about anything over six inches in diameter?

MR. DOWD: Nothing.

MR. MC DONALD: This addition won't be creating abnormal runoff or anything that you don't have now?

MR. DOWD: No, I think it will make the runoff a little bit easier.

MR. MC DONALD: Not over any existing easements or sewer or water lines?

MR. DOWD: Not that I'm aware of.

MR. TORLEY: Are you on town water and sewer?

MR. DOWD: Yes, I am.

MR. TORLEY: So it's not over any of those lines? Frequently, the sewer lines or water lines might run up under the driveway.

MR. DOWD: No, the sewer line actually comes out to the, between the bay window and the regular standard windows, which is my daughter's bedroom on the right side of the house, if you look down, you'll see a small bush there and the cleanout trap is right next to the one, the small bush to the left.

MR. TORLEY: This addition will be sitting over what's now paved?

MR. DOWD: What's now just plain open driveway.

MR. TORLEY: Again, as you've done already but please talk to your neighbors a lot about this.

MR. DOWD: Oh, we were talking to them again about it yesterday.

MR. TORLEY: They're going to get a letter in the mail. Gentlemen, do you have any other questions at this time?

MR. BABCOCK: Can I say one thing first? I'm just going over this again and he did put a little allowance on the side yard but I also see that it's 32 feet the front corner because of the angle of the house, closer to the road so we--

MR. DOWD: That's not to the road, that's to that, I was told this is a right-of-way, this is the curb here, I was told this area in between is a right-of-way of some sort but--

MR. BABCOCK: But it's still owned by the town, this is your property line.

MR. DOWD: 32 feet to the property line.

MR. BABCOCK: That's fine.

MR. TORLEY: You're sure of that cause--

MR. BABCOCK: I just want to make sure if you needed a front yard variance that he would have it.

MR. DOWD: I thought I would need the front yard variance also and when I got the disapproval from the building department, it indicated that I just needed the side yard.

MR. BABCOCK: I believe he needs the front yard also, I

think we missed that.

MR. TORLEY: It's the same money, let's put it in.

MR. DOWD: I was surprised, I thought maybe there was a different interpretation on the property line or the curb.

MR. TORLEY: Mike, how much does he need there?

MR. BABCOCK: He needs a three foot front yard variance.

MR. TORLEY: We'll put that in.

MR. DOWD: Yeah.

MR. MC DONALD: So it will be a 9 foot side yard and three foot front?

MR. BABCOCK: Right.

MR. MC DONALD: Do it all at one time.

MR. DOWD: Okay.

MR. TORLEY: I see the existing house also has 7.9 to the other side yard.

MR. BABCOCK: It's existing, it's there.

MR. TORLEY: Should we put them all in so it's covered? If we do everything now, the next time you refinance there won't be any problems.

MR. MC DONALD: If he tries to sell, he'll run into another problem.

MR. DOWD: That was there when we refinanced.

MR. TORLEY: If we're going to do this, might as well get it all taken care of so the refinance won't be held up in the future.

MR. MC DONALD: You'd probably have to come back.

MR. TORLEY: You don't want to come back.

MR. BABCOCK: The house is built in 1963 so that's the reason for that.

MR. TORLEY: Put it in anyway. Gentlemen, now we're looking at a request for public hearing for three variances, two side yards and a front yard, do I hear a motion on this matter?

MR. MC DONALD: What's going to be the other side yard? One is nine and the other one would be what, he's got 7.9 now?

MR. REIS: Eight foot side yard on the other side, Mike.

MR. BABCOCK: Seven point one foot, so say eight foot is good enough, he's not moving the house, that's for sure.

MR. REIS: Do we have a motion on the floor?

MR. TORLEY: I'm waiting.

MR. REIS: Make a motion that we set up Mr. Dowd for his requested variances of a 9 foot side yard and 8 foot side yard and a 3 foot front yard at 23 Parade Place.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

PUBLIC HEARINGS:

KERRY KIRK FOR JOSEPH DELEONARDO (03-13)

Ms. Kerry Kirk appeared before the board for this proposal.

MR. TORLEY: Request for an interpretation and/or use variance for a three-family dwelling at 19 Hillside Avenue in an R-4 zone. Is there anyone besides the applicant who wishes to speak on this matter? Seeing no one, so indicate in the record.

MS. MASON: On April 11, 2003, 32 addressed envelopes containing the public hearing notice was mailed out.

MR. REIS: Any responses?

MS. MASON: No.

MS. KIRK: First thing that we're trying to do is get the interpretation of use. When I was here last, I did have two letters with me from tenants who occupied the property from '54 to '62 and another one from '60 to '62. I was then able to get a next door neighbor who had lived on the property from 1950 till last year and all the years that she lived next door to it it was used as a three family, so she wrote me a letter and then just in case if anybody ever wants to know this, if you go to the public library, you can actually pull up the old cross reference directories and it says, Mike knows what I'm talking about, not all of them, it's odd years, like they'll have four years in a row where you look up the street, actually says who lived there, what their phone number was.

MR. TORLEY: We'll receive these for the record, first cross reference directory showing three separately named persons residing at this dwelling in 1963, 1964, 1965, 1966 and 1967.

MS. KIRK: You know I through that in, there was one vacancy in one unit in '66 but then '67 it was full.

MR. TORLEY: Another letter from Miss Roseann Cubito.

To Whom It May Concern, Town of New Windsor. I Roseann Antonelli Cubito have been a resident at 15 Hillside Avenue, New Windsor since 1950. The house next door to me, 19 Hillside Avenue, New Windsor owned by Camille and Joseph DeLeonardo since 1978 has been continually occupied as a three-family house. If I can be of any assistance to the DeLeonardos or the Town Zoning Board, please fell free to contact me. Letter dated 3/29. Another one December 11, 2002 from Jean Francasi (phonetic). I occupied a one bedroom apartment at 19 Hillside Avenue from 1960 to 1962. A third letter from Camille Lastarsia (phonetic). To Whom It May Concern: Just to let you know that I was the first tenant to rent the two bedroom downstairs apartment at 19 Hillside Avenue, New Windsor in 1954 to 1962. At that time, my married name was Mrs. Vincent Pettoretti (phonetic).

MS. KIRK: And these are the microfiches of the directories, I hand wrote them but I did bring a magnifying glass in anybody wants to attempt to read that. It's horrible, I got a headache.

MR. TORLEY: This is the kind of documentation we'd like to see. I didn't know this data would exist.

MS. KIRK: I'll be honest with you, I didn't either, I went down to the library and told them my predicament and they were the ones who said to go to the local history and that's where it was.

MR. TORLEY: Gentlemen, do you have any motion on the interpretation that this is a three-family house pre-existing zoning?

MR. REIS: I'm comfortable with it.

MR. TORLEY: Any questions on this? Do I hear a motion for an interpretation on this matter?

MR. REIS: I'd like to ask the building inspector a question. Structurally, as far as you're concerned as the building inspector, there's no violations or anything that's--

MR. BABCOCK: Actually, we never inspected the house as of yet, basically, if it's determined that this house predates zoning, it wouldn't require an inspection, it's just been there forever and that's it. The assessor's office picked it up as a three family in 1978 which is funny that the date, and that was apparently a time of a sale or whatever.

MS. KIRK: It was actually my client who instructed his attorney to follow up on the legality of the house and I don't know who dropped the ball.

MR. BABCOCK: So basically if it's determined tonight that it's the interpretation that it predates zoning that's it, we'll just write a new letter saying it predates zoning and it's over.

MR. MC DONALD: We have what, 1952 or--

MR. TORLEY: One letter from 1950 to 1962.

MS. KIRK: I had a contractor in and when we went in to the building, even though I'm the listing agent, you start looking closely at a house, as we're walking around he's going you know, I think it was built originally and then as he started pointing things out, I'm going there's no basement steps, there's no place where they could have been, all these weird things and all the cabinets are all from 1950, you know, it might of actually been built like this, not even converted, I didn't even notice that.

MR. MC DONALD: Two apartments are where?

MS. KIRK: One is down and one is actually on the first floor.

MR. TORLEY: You realize that should this interpretation be granted in essence making this predating zoning, it doesn't relieve you from any other fire codes or anything else like that.

MS. KIRK: I know, I'll let the owner be aware of that.

MR. REIS: Accept a motion?

MR. TORLEY: Yes, sir, if there are no other questions.

MR. REIS: I make the motion that we accept based on the documentation that's been submitted that 19 Hillside Avenue be interpreted to be a three family dwelling prior to zoning requirements.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MAKAN HOMES (03-09)

MR. TORLEY: Request for 51,543 sq. ft. minimum lot area, 5 ft. front yard setback and 10 ft. 6 inch rear yard setback to construct a single-family house in an R-3 zone at 200 Riley Road.

Mr. Sean Purdy appeared before the board for this proposal.

MR. PURDY: Good evening members of the board. Sean Purdy, I'm an employee of Makan Home Developers and I have a copy of what I'm going to say.

MR. TORLEY: So the issue is this is a non-conforming lot pre-existing zoning?

MR. PURDY: That's correct.

MR. REIS: Mike, town water and town sewer in this location?

MR. BACOCK: Yes. Is the elevation going to be high enough for sewer?

MR. PURDY: It will be high enough according to the engineer. Also, in that packet, if you have the same packet, drainage study from the engineer also indicating the flow is to remain the same towards the Thruway outfall.

MR. MC DONALD: Question. I'm trying, in relation to the crash gate that they have for vehicles entering the Thruway, where is this lot located?

MR. BABCOCK: It's on the north towards 207, it's the next available lot from the crash gate, the crash gate, Riley Road comes right out to the Thruway and that's this pipe, point of the lot where it goes to the crash gates a ways down the road.

MR. MC DONALD: I'm just trying to see where it's at, that's the only reference point that I could think of.

MR. TORLEY: So you have a pre-existing, non-conforming

lot?

MR. PURDY: Correct.

MR. TORLEY: That--

MR. PURDY: The board had requested some information. Should I highlight that for anybody?

MR. TORLEY: It's up to the board, if they have any questions after looking at the document packet. Do you guys have any questions?

MR. PURDY: We included in the packet information from the assessor's office, the assessor's office did not have any information which preceded 1965 which included a title report which shows evidence of the property and there's a typo in the letter which shows evidence of the property in 1965 and 1956, 1931, 1929 and it goes back reference to about 1876.

MR. TORLEY: But the present constraints of this property, Thruway was put in in what, '54, '55 up here?

MR. PURDY: It would be around that time and we have also submitted an engineering report with respect to drainage which is another item which the board had requested. And it indicates there would be no change in the drainage flow, the drainage would continue running down towards the Thruway drainage system, which is naturally and currently where it is at present.

MR. REIS: Mike, would it be any less of an encumbrance to place the proposed dwelling back and have them require a rear yard variance rather than a front yard variance to be more consistent with the neighborhood?

MR. PURDY: There's also a rear yard setback.

MR. BABCOCK: It's a rear yard also.

MR. TORLEY: The permitted building lines don't allow any kind of a house here really.

MR. REIS: Oh, yes, I'm sorry.

MR. PURDY: The proposed dwelling which I have a plan for is 2,600 square feet approximately. I don't know if anybody wants to see what that looks like.

MR. TORLEY: Two story colonial?

MR. PURDY: Want to see it? No problem. Yes, to answer your question.

MR. TORLEY: And that house is going to border on the Thruway?

MR. MC DONALD: Why is it going there? That's my question.

MR. TORLEY: Given the fact that this house requires setback encroaching on the required back yard that borders the Thruway, do we have any special notification requirements for that?

MR. BABCOCK: They had to be within the letters that were sent out.

MR. TORLEY: But there used to be special requirements for government owned properties.

MR. BABCOCK: The only thing that you may be talking about, Mr. Chairman, is Orange County Planning Board which is not, I don't know, that went away quite a few years ago.

MR. KRIEGER: They have pretty much written themselves out of it, they don't want to hear about it.

MR. TORLEY: I thought with the State Thruway we'd have something. This certainly is a uniquely shaped lot.

MR. PURDY: It certainly is.

MR. MC DONALD: To say the least.

MR. TORLEY: But it's so far below the present zoning.

MR. PURDY: It's under the acreage for SEQRA.

MR. TORLEY: What I was thinking of we had another one some years back where we had the lot adjoined set aside for the water canal.

MR. BABCOCK: That's a little bit different, they get more involved with the lot, water and the aqueduct and they were notified like any adjoining neighbors and then and the State of New York was notified and they have not chose to say anything, the aqueduct people at that time had come in and said that they wanted the people to repair their fence.

MR. TORLEY: Yeah.

MR. REIS: Could this lot have been in conformity prior to the new zoning, Mike?

MR. TORLEY: It's 28,000 square feet, the old zoning was one acre, as I recall.

MR. BABCOCK: Well, the water just went down Riley Road, partially went down Riley Road, I don't know where the sewer line, I think the sewer line was always there.

MR. MC DONALD: Yeah, it's been there for a while.

MR. BABCOCK: With water and sewer, my answer would be yes, if the water came after the zoning change, then it would not have met the zoning.

MR. REIS: Thank you.

MR. TORLEY: Yeah, Mike, you're asking if we can ask them to move the house site to some other point in the land?

MR. REIS: Yeah, I don't see that that's possible.

MR. TORLEY: Well, we have the, as a board, we can decide to grant such variances we deem proper and you could say that we're only going to grant him, we, wouldn't grant him a front yard variance cause we

wanted the house sited further back, that's within our purview. I don't see a topo on this, I don't know whether it's physically possible to site the house a little more to the, I guess it would be east, southeast maybe.

MR. BACOCK: Well, I can tell you that the Thruway at this point is much lower than Riley Road so the dropoff, I don't know how far it goes before it drops off. So the farther he goes back, the lower the house would be also.

MR. PURDY: Yeah, I submitted photographs the first time I was here.

MR. TORLEY: I can't tell really where the slope breaks but that's, again, no matter where you put the house on the property, it would fail one or the other of the setbacks. There's the alternative, you have a quote pre-existing, a lot that pre-exists zoning, but it may be so oddly shaped and so badly sited it really isn't practical to build on it.

MR. PURDY: That's an interesting argument.

MR. TORLEY: Does this have, your question is would this proposed structure, would it change the nature of the neighborhood?

MR. PURDY: No, it doesn't.

MR. TORLEY: You're asserting it would not change any drainage?

MR. PURDY: According to the engineer's report. The surrounding neighborhood is single family residential, about a half mile up the road, there's an Orange County water facility.

MR. REIS: Your immediate neighbor to the north, is that an existing dwelling there?

MR. PURDY: It's a vacant lot, across the street is single family.

MR. TORLEY: So this lot indicated, that's what we're talking about you say it's a vacant piece of property?

MR. PURDY: Yes.

MR. TORLEY: Well, you could certainly offer to purchase or combine those two lots, therefore have a perfectly suitable piece of property that would not require variances.

MR. PURDY: If the owner so chooses, yes.

MR. TORLEY: Have you, the people you represent or the owner of this other lot, have they discussed possible purchase with those people?

MR. PURDY: No, not that I'm aware of.

MR. TORLEY: You've got a really weird substandard shaped lot next to it, if it was added to the lot next to it, you could site a house on there without any side yard setback variances, anything at all and it will become much closer to what the Town Board has deemed to be proper size lots for that area.

MR. PURDY: I understand, Mr. Chairman, however, at this point, the people that I work for are not looking to buy that lot and the only thing that I can present to the board is the lot that we own.

MR. BABCOCK: Mr. Chairman, this map, the survey map that they have presented to us from Zimmerman Engineering shows that these are possibly three different lots to the north of his, according to my tax map they're not, so I'm not sure if he picked up some information that was older or what but lot 22.1 is a 3.4 acre lot so I'm not sure what those lines are doing there.

MR. PURDY: Which lines are those?

MR. BABCOCK: It's showing 65-1-22.1 shows a small lot.

MR. PURDY: What he did is compressed it to fit it on to the plot plan, you see the--

MR. TORLEY: I see a notch there. Although these two properties could be combined into a property that in each case would meet, you'd have two conforming lots by moving the lot line, one is 3.4 acres, yours is 3/4 of an acre, you can add them together and get two conforming lots.

MR. PURDY: It's possible, I don't have any authority there, Mr. Chairman.

MR. TORLEY: I'm asking if you pursued that possibility?

MR. PURDY: No.

MR. MC DONALD: That big a lot would be looking for a subdivision.

MR. TORLEY: Well, no, it's 2 acre zoning out there now so those two lots together would just about--

MR. BABCOCK: In this zone is one acre.

MR. TORLEY: Says 80,000 square feet.

MR. BABCOCK: I don't know where the line is but this, I'll have to check that, I think that's a typo.

MR. TORLEY: So it should be 40,000, not 80?

MR. BABCOCK: Yeah, I think so.

MR. TORLEY: That makes the requested variance even less then.

MR. BABCOCK: I think they may have picked the information off the survey and plot plan, says minimum lot area of 80,000.

MR. PURDY: Yeah, that's where we took the information from based on what the engineer represented.

MR. TORLEY: I don't recall where it goes from one to two acres out there.

MR. BABCOCK: No, the R-3 zone and R-2 zone split somewhere here, I'm pretty sure this is an R-3 zone which would be one acre lot.

MR. TORLEY: Says R-3 so instead of 51,000 square foot variance request, it's a 15,000.

MR. PURDY: That might be more palatable to the board.

MR. TORLEY: You're substantially less in the variance request.

MR. BABCOCK: Before I represent that as being true, I'd have to go to my office and verify that. You want me to do that?

MR. TORLEY: I think it might be helpful if you can do it, it makes a big difference 51,000 square foot variance to a 20,000. Mike, I'm somewhat troubled by the front yard variance, the front and the northern side yard variance, is there any way you can shift that, like I said, back a little further away from Riley Road a little further south of that other borderline really making you move to the south, southeast?

MR. PURDY: I believe that the house that this envelope has been placed on the plan in an effort to place the house in the widest section. If the board is looking the relocate that, I don't think that that's a difficult problem.

MR. TORLEY: Cause I personally I could live with more of a back yard variance when it's bordered on the Thruway anyway than the front yard variance on Riley Road.

MR. REIS: That's why I brought it up.

MR. TORLEY: It's a good point.

MR. PURDY: The front yard is 35 feet.

MR. TORLEY: If you can fit the front of the house on

the front yard setback.

MR. PURDY: Make the front yard conform.

MR. TORLEY: See the dashed triangle, yeah.

MR. PURDY: Okay, just to make sure we're discussing the same thing.

MR. TORLEY: Mike brought up the point if you move the house back so you need a, you need a requested front yard variance, move back a few feet, it increases the rear yard variance request but that's the Thruway, it's not one of our roads or to a potential neighbor over here, also means you meet the side yard variances.

MR. PURDY: Side yard is 15 we're already meeting that.

MR. TORLEY: Move it straight back to whatever.

MR. PURDY: 35 foot front yard. It would only cause a problem with the septic and well and there's no septic and well so--

MR. TORLEY: If we get to that stage, what would happen then I think is we'd grant an increased rear yard variance and refuse to grant a front yard variance.

MR. PURDY: Or I could just offer to amend the application.

MR. TORLEY: Withdraw the front yard variance request.

MR. PURDY: And increase the rear yard variance.

MR. TORLEY: I'm not sure how much that would do it because you've got the rear yard, you're offering 29.6 so it looks like it might be another like a 15 foot six inch rear yard variance then.

MR. PURDY: That would add five feet. You want me to wait to make that amendment till the building inspector returns?

MR. TORLEY: Yes, it's his input as to whether or not

it's there.

MR. BABCOCK: It's an R-3, 80,000 square foot.

MR. TORLEY: It's 80,000?

MR. BABCOCK: Yes.

MR. REIS: Mike, we were just discussing if the applicant would basically move the proposed dwelling back the same proportion towards the Thruway.

MR. TORLEY: So he'd meet the front yard setback.

MR. REIS: It would be less obtrusive.

MR. KRIEGER: Now the question is if he does that how much rear yard variance would be requested?

MR. BABCOCK: Well, if it's 30 feet, 30.1 feet, he's got to be 35 feet so he has to go back an extra five feet for the rear yard so the rear yard would be 15 feet six inches, 15.6 feet.

MR. KRIEGER: Would that be enough?

MR. TORLEY: My denial says ten feet point six inches.

MR. BABCOCK: This is a typo. No, it's 10.6 feet, forget the inches.

MR. TORLEY: So why don't we, I would suggest that you request a 16 foot, make sure we're a little--

MR. PURDY: So I would amend our application to remove the requirement for a front yard variance and increase the rear yard variance that we're requesting to 16 feet.

MR. TORLEY: Is there anyone in the public who wishes to speak on this hearing? Let the record show there is none.

MR. MC DONALD: If we go back to the 35 foot.

MR. PURDY: Yeah, the front yard would become 35 feet which is the normal setback.

MR. RIVERA: Did we get the number of notices sent out?

MR. PURDY: I'm also making the assumption, Mr. Chairman, that when I pull the building back, it won't alter negatively the side yard.

MR. BABCOCK: That's correct, it's going to help it.

MR. PURDY: I think it would increase it because of the angle of the northern property.

MS. MASON: On April 10, 16 addressed envelopes containing the public hearing notice were mailed out.

MR. REIS: Any responses?

MS. MASON: No.

MR. TORLEY: Mike, were this to be considered as our non-conforming, pre-existing substandard lot which is known as the Beaver Dam type lots, would this meet those criteria?

MR. BABCOCK: No, that's why he's here.

MR. TORLEY: So he would not even meet the criteria of that substandard size lot because--

MR. BABCOCK: Well, you have to meet them all, which is a 40 foot rear yard, 35 foot front yard, two of the ones, Mr. Chairman, I don't have that in front of me but he didn't meet some of the rules of the non-conforming lots, so therefore, he doesn't meet it, that's it, he goes to a regular lot.

MR. TORLEY: And my recollection, I'm sorry I neglected to bring my copy, my recollection is the following paragraph is a statement by the Town Board that it's their considered opinion that, I'm paraphrasing here obviously, that lots that do not meet those criteria are not compatible with an orderly growth of the community, that's a paraphrase, I believe of the spirit

of their statement. So to my mind, comes under the old legislative intent kind of statement.

MR. KRIEGER: It was a statement of legislative intent, I guess.

MR. REIS: I don't see this altering the community in any way, you've got the State highway behind you, it's a rural area, substandard lot, obviously, I'm personally not opposed to it.

MR. MC DONALD: Second it.

MR. TORLEY: Gentlemen, are you ready to entertain a motion?

MR. MC DONALD: Yes, I am.

MR. TORLEY: And sir, you're willing to, we're now amending the variance request so that we're not requesting, you're not requesting a front yard variance.

MR. PURDY: That's correct, Mr. Chairman.

MR. TORLEY: And you're requesting a, we said a 16 foot rear yard variance and we're still in the nature of requesting a 51,543 square foot area variance.

MR. BABCOCK: That's correct.

MR. PURDY: Yes, Mr. Chairman.

MR. TORLEY: If you have no other questions, I'll entertain a motion on it.

MR. REIS: I make a motion to meet those requirements.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE

April 28, 2003

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MR. TORLEY

NO

FORMAL DECISIONS

1. DENIS PERKOVIC (ANTHONY FAYO) - 03-02
2. ROBERT ANDREWS - 02-67
3. MARTIN & SUSAN OLSEN - 03-08
4. ROSE CRUDELE - 03-07
5. JOHN RINALDI - 03-11
6. JOHN BENICHIASA - 03-04
7. PAUL & LU ANN DECKER - 03-06
8. FRANCO FIDANZA (PLANET WINGS) - 03-03
9. THOMAS BAILEY - 02-73
10. RONALD & LARISUE MC DERMOTT (BOB BIAGINI) - 02-70

MR. TORLEY: Gentlemen, the remaining item of business is a set of formal decisions. What's your pleasure?

MR. MC DONALD: Can we accept them all in block, please? I'll make that motion.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE
MR. TORLEY	AYE

MR. REIS: Motion to adjourn.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. REIS	AYE
MR. MC DONALD	AYE

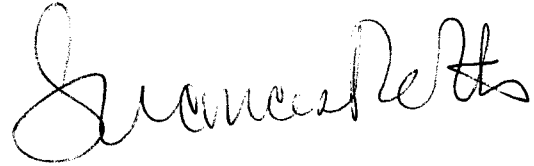
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MR. TORLEY

AYE

Respectfully Submitted By:

A handwritten signature in cursive script, appearing to read "Frances Roth".

Frances Roth
Stenographer